

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JIAN PING LIN,

Plaintiff,

v.

MONDA WINDOW & DOOR SYSTEMS, INC.,
MONDA WINDOW & DOOR, CORP., MONDA
WINDOW & DOOR, MFG. LTD., WONDA LLC,
RIBIAO WANG, DENIS WANG, MIN OUYANG,
DANCY LIN, and ELIAS ABUBEKER,

Defendants.

MEMORANDUM & ORDER
17-CV-3737 (MKB) (RER)

MARGO K. BRODIE, United States District Judge:

Plaintiff Jian Ping Lin commenced the above-captioned putative class action on June 6, 2017, against Defendants Monda Window & Door Systems, Inc. (“MWDS”), Monda Window & Door, Corp., Monda Window & Door, Mfg. Ltd., Wonda LLC, Ribiao Wang, Denis Wang, Min Ouyang, Dancy Lin, and Elias Abubeker, asserting claims under the Fair Labor Standards Act, § 201, *et seq.*, New York Labor Law, § 190 *et seq.*, the Illinois Minimum Wage Law, 820 ILCS 105/1 *et seq.*, and the Illinois Wage Payment and Collection Act alleging, *inter alia*, nonpayment of minimum wage and overtime. (Compl., Docket Entry No. 1.)

On September 26, 2017, Defendants MWDS, Wonda LLC, and Dancy Lin moved to dismiss Plaintiff’s claims against them pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. (Defs. Mot. to Dismiss, Docket Entry No. 24.) On April 5, 2018, the Court referred Defendants’ motion to Magistrate Judge Ramon E. Reyes for a report and recommendation. (Order dated Apr. 5, 2018.) By report and recommendation dated August 7, 2018 (the “R&R”), Judge Reyes recommended that the Court grant Defendants’ motion to dismiss Plaintiff’s claims

against Dancy Lin, any claims originating before June 21, 2011, and the New York Labor Law claims against all Defendants. Judge Reyes also recommended that the Court deny the motion to dismiss MWDS and Wonda as Defendants in this action. (R&R, Docket Entry. No. 27.) No party has objected to the R&R.

A district court reviewing a magistrate judge's recommended ruling "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "Failure to object to a magistrate judge's report and recommendation within the prescribed time limit 'may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object.'" *Sepe v. N.Y. State Ins. Fund*, 466 F. App'x 49, 50 (2d Cir. 2012) (quoting *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997)); *see also Almonte v. Suffolk Cty.*, 531 F. App'x 107, 109 (2d Cir. 2013) ("As a rule, a party's failure to object to any purported error or omission in a magistrate judge's report waives further judicial review of the point." (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) ("[A] party waives appellate review of a decision in a magistrate judge's report and recommendation if the party fails to file timely objections designating the particular issue." (citations omitted)).

The Court has reviewed the unopposed R&R and, finding no clear error, adopts the R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1). Accordingly, the Court grants Defendants' motion to dismiss with respect to Plaintiff's claims against Dancy Lin, any claims originating before June 21, 2011, and the New York Labor Law claims against all Defendants. The Court denies Defendants' motion to dismiss MWDS and Wonda as Defendants in this action.

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge

Dated: September 13, 2018
Brooklyn, New York